

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

LEVERN JOYNER,

Petitioner,

v.

STEPHEN M. UPTON,

Respondent.

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CIVIL ACTION FILE  
NO. 1:06-CV-1071-TWT

OPINION AND ORDER

This is a pro se habeas corpus action. It is before the Court on the Report and Recommendation [Doc. 19] of the Magistrate Judge recommending dismissing the Petition for lack of exhaustion of state remedies. In his Objections, the Petitioner argues that he should be allowed to dismiss the unexhausted claims. If the Petitioner really wants to forego state habeas corpus review, he can refile the federal petition and omit all claims other than those presented in his direct appeal. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Motion to Dismiss for Lack of Exhaustion [Doc. 7] is GRANTED. This action is DISMISSED without prejudice.

SO ORDERED, this 29 day of January, 2007.

/s/Thomas W. Thrash  
THOMAS W. THRASH, JR.  
United States District Judge